

46 Am. Jur. 2d Judges § 155

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Judges

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IX. Disqualification to Act in Particular Case

B. Grounds for Disqualification

5. Prior Participation in, Connection with, or Knowledge of the Case or Parties as Grounds for Disqualification

c. Prior Participation in or Connection with Case as Attorney as Grounds for Disqualification

§ 155. Disqualification of judge where party to present proceeding was client

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  47(1), 47(2)

To disqualify a judge for having been of counsel in the case, the judge must have represented, or acted as counsel or attorney for, one who is a party to the present action or proceeding.¹

To avoid the appearance of impropriety, a judge assigned to a case involving multiple plaintiffs has a duty to disqualify him- or herself if the judge participated as counsel for some of the plaintiffs in prior related litigation.²

Practice Tip:

The proper time for a defendant to raise the issue of a trial judge's recusal based on his or her prior representation and personal knowledge of the defendant is pretrial, not prior to sentencing.³

Footnotes

- 1 [Matlock v. Sanders](#), 273 S.W.2d 956 (Tex. Civ. App. Beaumont 1954).
A judge was not required to recuse himself from parental termination proceedings due to his prior representation of a court-appointed special advocate (CASA) guardian ad litem in the initial abuse and neglect proceedings; by serving as counsel for the CASA guardian ad litem in the case, the judge was not an "attorney in the action or proceeding for any party" as contemplated by the disqualification statute. [In re A.A.](#), 2015 MT 268N, 357 P.3d 337 (Mont. 2015).
- 2 [State ex rel. Division of Family Services v. Oatsvall](#), 612 S.W.2d 447 (Mo. Ct. App. S.D. 1981).
- 3 [State v. Thornton](#), 10 S.W.3d 229 (Tenn. Crim. App. 1999).

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